

Additional Views to H.R. 1115, “The Class Action Fairness Act of 2003”

I believe there are serious abuses of the consumer class action system in this country. Too often, abusive coupon settlements net lawyers large fees while victims are left with little more than discounts on future purchases. That is why I would support common-sense reforms if they were targeted at the abuses.

However, H.R. 1115 follows a scorched earth approach that targets every class action, including those brought to protect the environment, senior citizens and minorities. To understand the breadth of this so-called “reform,” one must look no further than the groups lined up in opposition. They include Greenpeace, the Natural Resources Defense Council, the American Cancer Society, the Brady Campaign to Prevent Gun Violence, the Campaign for Tobacco Free Kids, the Lawyer’s Committee for Civil Rights Under Law, the Leadership Conference on Civil Rights, the Alliance for Retired Americans, and the Violence Policy Center, among others. The Judicial Conference and the State Chief Justices also oppose this bill because of the havoc it plays on state and federal courts.

But what is particularly offensive to my home State of California is that the scorched earth approach does not even stop at class actions. California, like many other States, has enacted strong consumer protection laws. *See* California Business and Professions Code section 17200, et seq. California has chosen to allow its District Attorneys, along with the California Attorney General, to enforce these laws in State courts. This bill usurps California's choice by forcing local prosecutors to bring state consumer protection actions in Federal courts.

Local prosecutors are not abusing the class action system. In one case, the San Francisco District Attorney’s office successfully settled a major consumer protection action against Provident Financial Corporation that netted Californians \$300 million. Under this bill, that case would have been forced into federal court, where the District Attorney would have to comply with Federal Rule of Civil Procedure 23 or lose the case.

That is preposterous. The Federal Government should not be forcing local prosecutors to try state antitrust and consumer protection actions in Federal court. Nor should the Federal Government force local prosecutors to comply with Federal class certification requirements.

Put simply, H.R. 1115 is an overreaching attempt to chill State and local enforcement of consumer protection laws. That effort is contrary to long-standing legal doctrines of our nation. It will also adversely impact competition and business development in the high tech sector, which is vital to this nation's future. Unfortunately, the sponsors of this legislation again rejected an attempt to remove this language. Accordingly, I must oppose H.R. 1115.

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